

who is employed for a limited period of time not to exceed 1 year. The appointment may be extended, up to a maximum established by implementing issuances, to perform the work of a position that does not require an additional permanent employee.

*Term employee* means an individual not on a career appointment who is employed for a period of more than 1 year up to a maximum established by implementing issuances, when the need for an employee's service is not permanent.

*Time-limited employee* means an individual appointed to a position for a period of limited duration (e.g., term or temporary) in either the competitive or excepted service.

EXTERNAL RECRUITMENT AND INTERNAL PLACEMENT

**§ 9901.511 Appointing authorities.**

(a) *Competitive and excepted appointing authorities.* The Secretary may continue to use excepted and competitive appointing authorities and entitlements under chapters 31 and 33 of title 5, U.S. Code, Governmentwide regulations, or Executive orders, as well as other statutes, and those individuals will be given career or time-limited appointments, as appropriate.

(b) *Additional appointing authorities.* (1) The Secretary and the Director may enter into written agreements providing for new excepted and competitive appointing authorities for positions covered by the National Security Personnel System, including noncompetitive appointments, and excepted appointments that may lead to a subsequent noncompetitive appointment to the competitive service.

(2)(i) DoD and OPM will jointly publish a notice in the FEDERAL REGISTER when establishing a new competitive appointing authority or a new excepted appointing authority that may lead to a subsequent noncompetitive appointment to a competitive position in the career service. DoD and OPM will issue a notice with a public comment period before establishing such authority, except as provided in paragraph (b)(2)(ii) of this section.

(ii) If the Secretary determines that a critical mission requirement exists,

DoD and OPM may establish a new appointing authority as described in paragraph (b)(2)(i) of this section effective upon publication of a FEDERAL REGISTER notice without a preceding comment period. However, the notice will invite public comments, and DoD and OPM will issue another notice if the authority is revised based on those comments.

(3) The Secretary will prescribe appropriate implementing issuances to administer a new appointing authority established under paragraph (b) of this section.

(4) At least annually, a consolidated list of all appointing authorities established under this section and currently in effect will be published in the FEDERAL REGISTER.

(c) *Severe shortage/critical need hiring authority.* (1) The Secretary may determine that there is a severe shortage of candidates or a critical hiring need, as defined in 5 U.S.C. 3304(a)(3) and 5 CFR part 337, subpart B, for particular occupations, pay bands, career groups, and/or geographic locations, and establish a specific authority to make appointments without regard to § 9901.515. Public notice will be provided in accordance with 5 U.S.C. 3304(a)(3)(A).

(2) For each specific authority, the Secretary will document the basis for the severe shortage or critical hiring need, consistent with 5 CFR 337.204(b) or 337.205(b), as applicable.

(3) The Secretary will terminate or modify a specific authority to make appointments under this section when it determines that the severe shortage or critical need upon which the authority was based no longer exists.

(4) The Secretary will prescribe appropriate implementing issuances to administer this authority and will notify OPM of determinations made under this section.

(d) *Time-limited appointing authorities.* (1) The Secretary may prescribe the procedures for appointing employees, the duration of such appointments, and the appropriate uses of time-limited employees. These procedures will preclude the use of employees on term appointments in positions that should be filled on a permanent basis. Term appointments may be used to accomplish permanent work in circumstances

## Department of Defense

## § 9901.515

where the position cannot be filled permanently, e.g., the incumbent will be out of the position for a significant period of time, but is expected to return.

(2) The Secretary will prescribe implementing issuances establishing the procedures under which a time-limited employee serving in a competitive service position may be converted without further competition to the career service if—

(i) The vacancy announcement met the requirements of § 9901.515(a) and included the possibility of noncompetitive conversion to a competitive position in the career service at a later date;

(ii) The individual was appointed using the competitive examining procedures set forth in § 9901.515(b) and (c); and

(iii) The employee completed at least 2 years of continuous service at the fully successful level of performance or better.

### § 9901.512 Probationary periods.

(a) The Secretary may establish initial probationary periods of at least 1 year, but not to exceed 3 years, as deemed appropriate for employees appointed to positions in the competitive and excepted service covered by NSPS. The Secretary will prescribe the conditions for such periods, such as creditable service, in implementing issuances. Initial probationary periods established for more than 1 year will be applied to categories of positions or types of work that require a longer time period to evaluate the employee's ability to perform the work. A preference eligible who has completed 1 year of an initial probationary period is covered by subparts G and H of this part.

(b) The Secretary may establish in-service probationary periods. The Secretary will prescribe the conditions for such periods, such as creditable service and groups of positions or occupations to be covered, in implementing issuances. An employee who does not satisfactorily complete an in-service probationary period will be returned to a grade or band no lower than that held before the in-service probationary period and will have his or her rate of basic pay set in accordance with

§ 9901.352(c) or 9901.354(c), as applicable. Nothing in this section prohibits an action against an individual serving an in-service probationary period for cause unrelated to performance.

### § 9901.513 Qualification standards.

The Secretary may continue to use qualification standards established or approved by OPM. The Secretary also may establish qualification standards for positions covered by NSPS.

### § 9901.514 Non-citizen hiring.

The Secretary may establish procedures for appointing non-citizens to positions within NSPS under the following conditions:

(a) In the absence of a qualified U.S. citizen, the Secretary may appoint a qualified non-citizen in the excepted service; and

(b) Immigration and security requirements will apply to these appointments.

### § 9901.515 Competitive examining procedures.

(a) In recruiting applicants from outside of the civil service for competitive appointments to competitive service positions in NSPS, the Secretary will provide public notice for all vacancies in the career service in accordance with 5 CFR part 330 and—

(1) Will accept applications for the vacant position from all U.S. citizens;

(2) Will, at a minimum, consider applicants from the local commuting area;

(3) May concurrently consider applicants from other targeted recruitment areas, as specified in the vacancy announcement, in addition to those applicants from the minimum area of consideration; and

(4) May consider applicants from outside that minimum area(s) of consideration as necessary to provide sufficient qualified candidates.

(b) The Secretary may establish procedures for the examination of applicants for entry into competitive and excepted service positions in the National Security Personnel System. Such procedures will adhere to the merit system principles in 5 U.S.C. 2301 and veterans' preference requirements as set forth in 5 U.S.C. 1302(b) and (c)